



US Army Corps
of Engineers®

Regulatory Division
1455 Market Street
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Irvington Pump Station Wet Weather Overflow Holding Pond

NUMBER: 23698S

DATE: October 20, 2008

RESPONSE REQUIRED BY: November 20, 2008

PROJECT MANAGER: Katerina Galacatos PHONE: 415-503-6778

Email: Katerina.Galacatos@usace.army.mil

1. **INTRODUCTION:** Union Sanitary District (USD) (contact: Sami Ghossain, 5072 Benson Road, Union City, California, 94587, 510-477-7500) has applied to the U.S. Army Corps of Engineers (USACE) for a permit to permanently fill 0.9 acre of jurisdictional waters to construct an emergency overflow containment/holding pond at their wastewater pumping station located at 46525 Fremont Boulevard in the city of Fremont, Alameda County, California (Figure 1). This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. **PROPOSED PROJECT:** The proposed project will construct a 4-acre holding pond adjacent to USD's Irvington Pump Station. The basic purpose is wastewater overflow containment. The overall project purpose is to prevent potential discharge of untreated wastewater into San Francisco during large storms (10-year events) that could impact water quality.

The project site is relatively level site with areas of vegetated non-native grasses at higher elevations and seasonal saltmarsh vegetation at lower elevations. The site also has depressions that are un-vegetated and pond water during the winter. The western portion was historically tidal. The eastern portion is outside the historical bay margins and currently has a mixed cobble, gravel and soil substrate, remnant from a former tank storage area. A mound of clean fill has been stockpiled at the southern end of the project site on uplands and will be used in constructing the proposed holding pond.

The Corps has delineated 4.74 acres of wetlands and 2.09 acres of waters within the project site (Figure 2).

The applicant proposes to construct the pond in northeastern portion of the site (Figure 3). The pond would be constructed using scrapers and graders to build a 6-foot high dike around the proposed 4-acre site (Figure 4). Bottom elevations would be sloped using scrapers to allow the wastewater to flow back into the pump station once the high flow had subsided. The fill material used to construct the dike would be medium plasticity clays and imported sand and gravel totaling 9,980 cubic yards of fill. Of this total, approximately 1,640 cubic yards of fill would be imported to the site from other locations.

Construction of the pond will result in the permanent fill discharge into 0.27 acres of wetlands and 0.67 acres of waters. Temporary impacts would be 0.03 acres of wetlands and 0.02 acres of waters (Figure 5). The applicant proposes to mitigate for the permanent of wetlands and waters by creating onsite wetlands and waters on the western portion of the property at a one to one ratio (Figure 6).

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy

Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. The proposed project will not impact any known threatened or endangered species.

Magnuson-Stevens Fisheries Conservation and Management Act: Essential Fish Habitat - The Magnuson-Stevens Fishery Conservation and Management Act requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH). There are no EFH concerns with this proposed project.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for

the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is not water dependent.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. The proposed project is not within the Coastal Zone.

National Historic Preservation Act of 1966 (NHPA): If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation,

economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Katerina Galacatos of our office at telephone 415-503-6778 or E-mail: Katerina.Galacatos@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional